

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JOHN CHARLESTON,

No. 3:17-cv-0595-JR

Plaintiff,

v.

WELLS FARGO BANK, N.A., et al.,

ORDER

Defendants.

HERNÁNDEZ, District Judge:

Magistrate Judge Papak issued a Findings and Recommendation [55] on September 5, 2018, in which he recommends the Court deny Defendants' motion to dismiss as to Plaintiff's claim for common law fraud and grant Defendants' motion to dismiss with prejudice as to Plaintiff's claims for breach of contract, RESPA violations, and unlawful foreclosure. Defendants timely filed objections to the Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

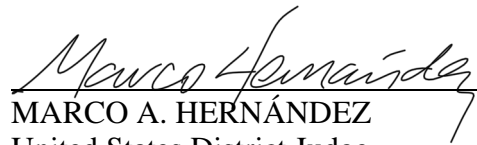
The Court has carefully considered Plaintiffs' objections and concludes that the objections do not provide a basis to modify the recommendation. The Court has also reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court adopts Magistrate Judge Papak's Findings and Recommendation [55]. Therefore, Defendant's motion to dismiss [45] is denied as to Plaintiff's claim for common law fraud and granted with prejudice as to Plaintiff's claims for breach of contract, RESPA violations, and unlawful foreclosure. Plaintiff is directed to file a second amended complaint in accordance with these conclusions within 21 days of the date of this Order.

IT IS SO ORDERED.

DATED this 3 day of January, ²⁰¹⁹~~2018~~.


MARCO A. HERNÁNDEZ
United States District Judge